



LONG OVERDUE RAIL SAFETY REAUTHORIZATION MUST BE PRIORITY FOR 110TH CONGRESS

It is simply disgraceful that over a decade has passed since our nation's rail safety programs have been reauthorized. Since the last reauthorization bill in 1994, safety problems and issues identified by railroad workers, Members of Congress, the media and local and state government officials have only intensified and the volume of freight, including hazardous materials, is pushing our rail system past capacity. Moreover, rail security concerns – present since the September 11, 2001 terrorist attacks – demand major rail safety and security legislative reforms and much tougher federal oversight and enforcement.

Since 1994 (the last rewrite of federal railroad safety laws), the total number of train accidents and derailments has increased. The accident rate, which takes into account the corresponding increase in train miles traveled, has increased; and, fatalities and injuries have also increased. Human factors, notably fatigue, are responsible for nearly 40 percent of all train accidents. Addressing fatigue, improvements to track safety (including the elimination of “dark territory”), enhanced mandatory worker training, adequate staffing, rigorous reporting requirements, stricter fines and penalties and strong whistleblower protections for workers are key components to a sound reauthorization bill. As Congress begins the reauthorization process for FRA safety programs, transportation labor will continue to be a vocal advocate for tougher standards and enforcement and critical improvements for rail workers' health and safety.

Employees are still being intimidated and harassed when it comes to reporting accidents and potential safety and security problems. Safety in the railroad industry is measured by the FRA's collection of data from accident and incident reports. A significant problem stems from the fact that workers are routinely and soundly discouraged from actually submitting these reports. The data itself is therefore flawed, and everything that relies on that data, such as rules and regulations, penalties and/or fines, are likewise skewed.

It is common practice, for example, for railroads to implement a “team” approach for injury reporting. Under this policy, teams of workers are rewarded for filing no injury reports in a given time period. Therefore, not only does one face pressure directly from his or her employer, but also from a system whereby employees are expected to discourage co-workers from seeking medical attention for workplace injuries and to “talk down” co-workers who might otherwise report safety concerns that should be addressed.

Strong whistleblower protections must be a staple of any rail safety reauthorization bill. Rail workers should never have to face employer retribution or the loss of his or her job for speaking out about a safety or security risks. It is disingenuous for the railroads to declare their front-line employees the “eyes and ears” of the rail system but at the same time oppose measures designed to protect those same workers that do speak out from facing employer retribution.

Training, both for new hires and recurrent training for existing employees must be the foundation of any federal safety program. The FRA should have a rule on minimum training standards that requires, among other things, mandatory classroom and on the job training before employees work unsupervised. And the rail carriers must be required to provide recurrent training to existing employees. As rail workers retire, the industry is also losing critical “institutional” knowledge that in the past was passed along to new hires. In all of the crafts, a majority of the actual day-to-day training is conducted by the more senior employees. The average age of railroad employees is well over 40. The end result of an aging workforce is that many workers with less than five years experience are replacing workers with 30 plus years of experience which is hardly a recipe for safe operations.

A related issue is employee certification. To ensure accountability for the safe operation and maintenance of railroad equipment and facilities, a certification program is needed for safety-sensitive personnel such as Carmen, conductors, mechanics, electrical workers, signalmen and track inspectors. Furthermore, any train that carries hazardous material should be staffed by workers certified in hazard identification, health effects and first response. Such training and certification should obviously also apply to emergency and first responders such as track and signal employees.

It is no secret that rail workers are being asked to do more and more with fewer resources and less sleep. More freight is being moved with fewer employees than at any time in the history of railroading. Fatigue is a serious reality that is clearly a contributing factor in many accidents and incidents. Congress must address the issue of fatigue in its reauthorization bill by granting FRA authority to strengthen hours of service rules; eliminating the four-hour “emergency” provision that currently allows carriers to demand that signal employees work beyond hours of service rules; barring so-called “limbo” time; and mandating predictable work and rest schedules (including undisturbed rest).

Congress should also prohibit the railroads from running trains over non-signaled or “dark territory.” Signal systems are affordable and relatively low-tech technologies that save lives. A misaligned switch on non-signaled track was identified by the National Transportation Safety Board as the cause of the horrific Graniteville, SC wreck in January 2005. Unfortunately, the rail industry routinely fails to properly maintain signal systems and in fact often petitions the FRA to waive signal requirements for large areas of track. Transportation labor also endorses enhancements to grade crossing safety programs and encourages the establishment of a national toll-free reporting system for grade crossing signal malfunctions, derailments or other events that affect safety and security on railroad properties.

Technological advances are important tools in creating a safer rail network. But technological advancements including Positive Train Control (PTC) cannot justify use of single-person locomotive crews. The responsibilities of a railroad to operate safely over public crossings, to inspect the moving train, to open public crossings quickly when stopped, and to interact with emergency responders as situations warrant cannot be address by PTC, and were not designed to do so. Railroads that are intent on operating trains with a single-person crew are ignoring their responsibility to their employees, local communities, local emergency responders and the general public. Congress must, if necessary, step in and bar the use of single-person crews.

A qualified, well-trained and adequately staffed federal inspector workforce is also critical to the safety of our nation's railroads. Current FRA inspector staffing is woefully inadequate as each inspector is responsible for over 500 miles of track – an area equivalent in size to Amtrak's Northeast Corridor. Regulations call for a minimum of two track inspections a week. The FRA must be required to hire and Congress must provide the resources for an additional 400 inspectors at a minimum.

The drive to cut costs and shed American jobs also threatens safety. Train inspections currently performed by U.S. rail workers play an important role in ensuring the safe and secure movement of U.S.-Mexico cross-border operations. Congress must monitor attempts by the industry to circumvent these checks by outsourcing them to Mexico. Fortunately, to date the FRA has not permitted the outsourcing of these inspections to Mexico. But if necessary, Congress must be prepared to block attempts by rail carriers to waive U.S.-side inspection mandates or other safety requirements in cross-border operations.

The safety of rail workers and the public has been compromised for too long. The railroads are making record profits and should be forced to devote adequate resources to safety. It is unconscionable that the railroads are not better stewards of an industry that is so vital to the economy and productivity of our nation. It is time for Congress to overcome the heavy handed politics of the powerful railroad lobby and pass strong, comprehensive rail safety legislation that protects workers and communities.

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